

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET, SUITE 300
DENVER, COLORADO 80202-2466

2005 SEP 27 AM 9:59

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)

P & O Cold Logistics, Inc)
5787 Harold Gatty Drive)
Salt Lake City, Utah)

Respondent)

ADMINISTRATIVE ORDER

Docket No. CAA-08-2005-0007
Clean Air Act, 42 U.S.C. § 7412(r)

ADMINISTRATIVE ORDER

Pursuant to Section 113(a)(3)(B) of the Clean Air Act, 42 U.S.C. 7413(a)(3)(B), as amended, P & O Cold Logistics is hereby ordered by the United States Environmental Protection Agency (EPA) to comply with the requirements of Section 112(r)(1) of the Clean Air Act, 42 U.S.C. § 7412(r)(1). Specifically, EPA Orders P & O Cold Logistics to maintain a safe facility, pursuant to Section 112(r)(1) of the Clean Air Act, by maintaining the ammonia system (including all related piping and equipment) in accordance with recognized industry standards.

I. Statutory and Regulatory Background

1. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Amendments added Section 112(r) to the Clean Air Act, 42 U.S.C. § 7412(r), which requires the Administrator of EPA to, among other things, promulgate regulations in order to prevent accidental releases of certain regulated substances.

2. Pursuant to Section 112(r)(1) of the Clean Air Act, 42 U.S.C. § 7412(r)(1), the owners and operators of stationary sources producing, processing, handling or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance have a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

II. Definitions

3. Section 112(r)(2)(C) of the Clean Air Act, 42 U.S.C. § 7412(r)(2)(C), and the regulations at 40 C.F.R. § 68.3 define "stationary source" as, *inter alia*, any buildings, structures, equipment, installations or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control) and from which an accidental release may occur.
4. Section 112(r)(2)(A) of the Clean Air Act, 42 U.S.C. § 7412(r)(2)(A), defines "accidental release" as an unanticipated emission of a regulated substance, as defined below, or other extremely hazardous substance into the ambient air from a stationary source.
5. Section 112(r)(2)(B) of the Clean Air Act, 42 U.S.C. § 7412(r)(2)(B), defines "regulated substance" as a substance listed pursuant to Section 112(r)(3) of the Clean Air Act. The list of substances regulated under Section 112(r) of the Clean Air Act is set forth at 40 C.F.R. § 68.130.
6. As used herein, the term "day" shall mean calendar day.

III. Factual Background

7. Respondent is the owner and/or operator of a facility located at 5787 Harold Gatty Drive, Salt Lake City, Utah (the "Facility"). The Facility is a refrigerated storage/warehouse.
8. Respondent handles, stores, and uses, and has handled, stored, and used, anhydrous ammonia in the refrigeration systems at its Facility.
9. Anhydrous ammonia is a regulated substance pursuant to Section 112(r)(2) and (3) of the Clean Air Act, and is listed at 40 C.F.R. § 68.130.
10. EPA conducted an inspection of the Facility on April 27, 2005 to assess compliance with Section 112(r) of the Clean Air Act and Section 312 of the Emergency Planning and Community Right-to-Know Act.
11. EPA's inspection of the Facility revealed a number of safety concerns regarding the physical state of the anhydrous ammonia refrigeration system which could lead to an accidental release of anhydrous ammonia and/or which could increase the harmful effects of such a release.
12. The ammonia system at the Facility is estimated by Respondent's representatives to contain 4,600 pounds of ammonia.

IV. Finding of Violation

13. Respondent is, and at all times referred to herein was, a "person" as defined by Section 302(e) of the Clean Air Act, 42 U.S.C. § 7602(e), and the owner and/or operator of the Facility.
14. The Facility is a "stationary source" pursuant to Section 112(r)(2)(C) of the Clean Air Act and 40 C.F.R. § 68.3.
15. At its Facility, Respondent handles, and/or stores, ammonia, a regulated substance pursuant to Section 112(r)(2) and (3) of the Clean Air Act, which is listed at 40 C.F.R. § 68.130.
16. Pursuant to Section 112(r)(1) of the Clean Air Act, Respondent has a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to: (a) identify hazards which may result from accidental releases of a regulated substance or other extremely hazardous substance, using appropriate hazard assessment techniques, (b) design and maintain a safe facility taking such steps as are necessary to prevent releases, and (c) minimize the consequences of accidental releases which do occur.
17. Based on information available to EPA, including information gathered during the inspection performed by EPA at the Facility and the Findings of Fact set forth above, EPA has determined that Respondent failed to satisfy the general duty referred to in Paragraph 16 above, in that, among other things, Respondent has not designed and maintained a safe facility taking such steps as are necessary to prevent releases. Therefore, Respondent violated the provisions of Section 112(r)(1) of the Clean Air Act, 42 U.S.C. § 7412(r)(1).

V. Compliance Order

18. Based upon the foregoing Factual Background, Finding of Violation, and other information available to EPA, it is hereby ordered that Respondent comply with the requirements set forth below. All activities specified below shall be initiated and completed as soon as possible even though maximum time periods for their completion are specified herein.
19. The provisions of this Order shall apply to Respondent and its officers, agents, servants, employees, and successors and to all persons, firms and corporations acting under, through or for Respondent.

VI. Work to be Performed

20. Respondent shall take at least the following steps to identify hazards which may result from accidental releases of regulated substances and other extremely hazardous substances from the Facility, design and maintain a safe facility taking such steps as are necessary to prevent releases, and minimize the consequences of accidental releases which do occur:

- a. Within 30 days of the effective date of this Order, Respondent shall perform the following activities:
- i. Post signs stating "Danger, Permit-Required Confined Space, Do Not Enter" on the evaporative condensers as required by the International Institute of Ammonia Refrigeration (IIAR); 1998; *Process Safety Management Guidelines for Ammonia Refrigeration*; Chapter 6, p. 6-8;
 - ii. Post emergency shutdown procedures and telephone numbers of emergency safety and operating personnel immediately adjacent to each machinery room door as required by ANSI /ASHRAE Standard 15-2001, Section 11.7;
 - iii. Label all ammonia vessels, equipment and piping. Identification of piping will include descriptive labels and flow direction (IIAR Bulletin No. 112, *Ammonia Machinery Room Design*; Section 4.3.f);
 - iv. Install rapid closing valves (preferable self-closing valves) at all oil draining points as required by IIAR Bulletin No. 110, *Start-up, Inspection and Maintenance of Ammonia Mechanical Refrigerating Systems* Section 6.8);
 - v. Supply tepid water with temperatures between 78 degrees F and 92 degrees F to the eye wash and shower station located immediately outside the machinery room exit door. in accordance with ANSI Z358.1-1998, *Emergency Eye Wash and Shower Equipment*.
- b. Within 180 days of the effective date of this Order, Respondent shall perform the following activities:
- i. Replace all pressure relief valves that have exceeded the IIAR recommended five year limit. IIAR Bulletin No.109, Section 4.9.7 states that pressure relief devices should be replaced within five years of the date of manufacture, or by the date specified by the manufacture;
 - ii. Have hydrostatic pressure relief valves installed in sections of piping in which liquid ammonia could be isolated between shut-off valves. Pressure relief valves need to be installed as required by ANSI /ASHRAE Standard 15-2001, *Safety Standard for Refrigeration Systems*, Section 9.4.3.
 - iii. Replace or repair condenser foundation supports which are badly rusted and in danger of collapsing. All condensers should be adequately

anchored and supported as required by IIAR Bulletin No.109, Section 4.2.1;

- iv. Evaluate machinery room ventilation system for adequate air movement. The ventilation system does not appear to follow industry standards for emergency ventilation of ammonia. The primary purpose of the ventilation system is to keep ammonia concentrations below potentially explosive levels in the event of a leak. The machinery room ventilation system needs to be redesigned to comply with IIAR Bulletin No. 111, *Ammonia Machinery Room Ventilation*;
- c. Within 365 days of the effective date of this Order, Respondent shall perform the following activities:
 - i. Inspect all piping and equipment and certify that it is fit for service. Areas of piping and equipment located throughout the facility had ice build-up, apparent insulation vapor barriers breached, visible pipe corrosion, and other conditions that did not appear to comply with industry standards (IIAR Bulletin No.109; *Minimum Safety Criteria for a Safe Ammonia Refrigeration System*; Sections 4.7.4 & 4.7.5).
 - d. Respondent shall submit a report to EPA, every three months from the effective date of this Order until the work is completed, detailing the repairs and other related activities conducted at the Facility. The reports shall be sent to the address below:

David Cobb
U.S. Environmental Protection Agency, Region VIII
Technical Enforcement Program
999 18th Street (8ENF-AT)
Denver, Colorado 80202-2466

21. Respondent shall provide EPA and its representatives, including contractors, with access to the Facility for the purpose of assessing Respondent's compliance with this Order and with the Clean Air Act. Respondent shall also provide EPA and its representatives, including contractors, with access to all records relating to Respondent's implementation of this Order.

VI. Potential Liability

22. Section 113(a)(3)(B) of the Clean Air Act grants EPA the authority to issue an Order to Comply to any person found in violation of Section 112(r) of the Clean Air Act and the regulations promulgated pursuant thereto.
23. Pursuant to Section 113 of the Clean Air Act, 42 U.S.C. § 7413, failure to comply with any of the provisions of this Order may subject P & O Cold Logistics Company to penalties of up to \$32,500 per day for each violation.
24. Issuance of this Order does not preclude EPA from assessing penalties or taking any other action authorized under the Act. This Order does not affect the obligation of P & O Cold Logistics to comply with all federal, state and local statutes, regulations and permits.
25. This Order shall become effective immediately upon receipt.
26. All information and documents submitted by P & O Cold Logistics to EPA pursuant to this Order shall be subject to public inspection unless identified as confidential by P & O Cold Logistics in accordance with the requirements of 40 C.F.R. Part 2. Information and documents so identified will be disclosed only in accordance with the provisions of 40 C.F.R. Part 2.



Carol Rushin,
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice
U.S. Environmental Protection Agency - Region VIII
999 18th Street
Denver, Colorado 80202-2466

9/23/2005
Date

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the Administrative Order was hand-carried to the Regional Hearing Clerk, EPA Region 8, 999 18th Street, Suite 300, Denver, Colorado, and that a true copy of the same was sent via certified mail to:

Charlie Conner
Director of Engineering
P & O Cold Logistics
19840 Rancho Way
Dominguez Hills, CA 90221

9/27/05
Date

Judith McTernan
Judith McTernan